Priddis Music, Inc. v. Trans World Entertainment Corporation Doc. 45

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July 19, 2006

VIA HAND DELIVERY

Hon. David R. Homer
United States District Court Magistrate Judge
Northern District of New York
James T. Foley U.S. Courthouse
455 Broadway
Albany, NY 12207

RE: Priddis Music, Inc. v. Trans World Entertainment Corporation

Dear Judge Homer:

I write to request a telephone conference with the Court to discuss and hopefully resolve an ongoing discovery related dispute prior to the filing of a motion to compel in the above referenced matter.

Trans World Entertainment Corp. ("Trans World") is a defendant in the above captioned matter, which involves allegations of contract breaches over the span of several years. In January, 2006, Trans World served a set of Interrogatories on counsel for Priddis Music Inc. ("Priddis"), plaintiff in this case, seeking seemingly basic information regarding their breach of contract claim; i.e. when the breach(es) occurred, the descriptions of the specific breach(es), amount of damages, etc. On March 14, 2006, Priddis served their responses ("Responses"). However, those Responses were insufficient and failed to provide, *inter alia*, even the most basic information, such as dates or descriptions of the alleged contract breaches that form the basis of Priddis's case. Indeed, the insufficiency of the Responses was expressly conceded by Priddis counsel in the e-mail that accompanied the Responses, which indicated that the Responses were deficient and would need to be supplemented. On April 14, 2006, Trans World sent the first of several letters objecting to the Responses as incomplete and insufficient (attached hereto as Exhibit A). Specifically, it was, and remains, Trans World's position that the Priddis interrogatory Responses fail to adequately apprise Trans World of the allegations against them. That information, of course, is essential for Trans World to prepare for both offensive and defensive depositions or to defend the action in general.

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Hon. David R. Homer
United States District Court Magistrate Judge
Northern District of New York
July 19, 2006
Page 2

Trans World has diligently and in good faith made its objections clear, sending at least six (6) additional letters (attached hereto as Exhibits B – G) regarding the Priddis interrogatory Responses. Throughout this process, counsel for Priddis made repeated representations that updated Responses would be served. Indeed, it was because of those representations that Trans World has not sought Court intervention previous to this date.

On July 10, 2006, counsel for Priddis served its Amended Interrogatory response ("Amended Response"), which consisted generally of multiple spreadsheets with no corresponding explanation. However, the Amended Response did nothing to address the fundamental deficiencies that exists in the original response, *i.e.*, the complete failure to appraise Trans World of the claims against them. On July 14, 2006, after a good faith effort to divine the content and meaning of the information that was provided, Trans World sent a letter detailing its objections and suggesting a conference to attempt to address the deficiencies of the Amended Responses (attached hereto as Exhibit H). Counsel for Priddis responded with a letter that (1) took the position that the Amended Responses were adequate and (2) noticed depositions for a week that they knew I was unavailable (attached hereto as Exhibit I).

Trans World has been prejudiced by the ongoing lack of appropriate discovery and cannot adequately prepare for the contemplated depositions in this action. Indeed, as the deadline for discovery is now, once again, fast approaching, Trans World finds itself in a detrimental position it diligently sought to avoid, and which has been created by Priddis, who waited until the eleventh hour to serve a new set of Amended Responses that simply do not answer the basic questions presented. As such, Trans World respectfully requests a telephone conference for the purpose of addressing the continued inadequacy of the Priddis Amended Responses and any other issues that arise from that lack of appropriate response.

Sincerely,

Robert C. Tietjen

RCT/cap
cc: Kenneth L. Gellhaus (via hand delivery)
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